



# Senate

General Assembly

February Session, 2006

**File No. 491**

Senate Bill No. 55

*Senate, April 12, 2006*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***AN ACT CONCERNING IDENTITY THEFT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 53a-129a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2006*):

4 (a) A person commits identity theft when such person [intentionally  
5 obtains personal identifying information of another person without the  
6 authorization of such other person and] knowingly uses [that] personal  
7 identifying information of another person to obtain or attempt to  
8 obtain, money, credit, goods, services, property or medical information  
9 in the name of such other person without the consent of such other  
10 person.

11 Sec. 2. Section 53a-130 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective July 1, 2006*):

13 (a) A person is guilty of criminal impersonation when [he] such  
14 person: (1) Impersonates another and does an act in such assumed

15 character with intent to obtain a benefit or to injure or defraud another;  
16 [or] (2) pretends to be a representative of some person or organization  
17 and does an act in such pretended capacity with intent to obtain a  
18 benefit or to injure or defraud another; or (3) pretends to be a public  
19 servant other than a sworn member of an organized local police  
20 department or the Division of State Police within the Department of  
21 Public Safety, or wears or displays without authority any uniform,  
22 badge or shield by which such public servant is lawfully  
23 distinguished, with intent to induce another to submit to such  
24 pretended official authority or otherwise to act in reliance upon that  
25 pretense.

26 (b) Criminal impersonation is a class [B] A misdemeanor.

27 Sec. 3. Section 54-93a of the general statutes is repealed and the  
28 following is substituted in lieu thereof (*Effective July 1, 2006*):

29 Whenever a person is convicted of a violation of section 53a-129a of  
30 the general statutes, revision of 1958, revised to January 1, 2003, or  
31 section 53a-129b, 53a-129c or 53a-129d, the court [may] shall issue such  
32 orders as are necessary to correct a public record that contains false  
33 information as a result of such violation.

34 Sec. 4. Subsection (c) of section 54-1d of the 2006 supplement to the  
35 general statutes is repealed and the following is substituted in lieu  
36 thereof (*Effective July 1, 2006*):

37 (c) Any defendant who is charged with a violation of section 53a-  
38 129a of the general statutes, revision of 1958, revised to January 1, 2003,  
39 or section 53a-129b, 53a-129c or 53a-129d and any defendant who is  
40 charged with any other offense committed as a result of such violation  
41 may be presented to the court in the judicial district or geographical  
42 area in which the person whose personal identifying information has  
43 been [obtained and] used by the defendant resides and may be  
44 prosecuted in such judicial district or geographical area.

45 Sec. 5. Subsection (a) of section 54-36h of the general statutes is

46 repealed and the following is substituted in lieu thereof (*Effective July*  
47 *1, 2006*):

48 (a) The following property shall be subject to forfeiture to the state  
49 pursuant to subsection (b) of this section:

50 (1) All moneys used, or intended for use, in the procurement,  
51 manufacture, compounding, processing, delivery or distribution of any  
52 controlled substance, as defined in subdivision (9) of section 21a-240;

53 (2) All property constituting the proceeds obtained, directly or  
54 indirectly, from any sale or exchange of any such controlled substance  
55 in violation of section 21a-277 or 21a-278, as amended;

56 (3) All property derived from the proceeds obtained, directly or  
57 indirectly, from any sale or exchange for pecuniary gain of any such  
58 controlled substance in violation of section 21a-277 or 21a-278, as  
59 amended;

60 (4) All property used or intended for use, in any manner or part, to  
61 commit or facilitate the commission of a violation for pecuniary gain of  
62 section 21a-277 or 21a-278, as amended;

63 (5) All property constituting, or derived from, the proceeds  
64 obtained, directly or indirectly, by a corporation as a result of a  
65 violation of section 53a-276, 53a-277 or 53a-278; and

66 (6) All property derived from the proceeds obtained, directly or  
67 indirectly, from a violation of section 53a-129a of the general statutes,  
68 revision of 1958, revised to January 1, 2003, or section 53a-129b, 53a-  
69 129c or 53a-129d, and any other offense committed as a result of such  
70 violation.

71 Sec. 6. (NEW) (*Effective July 1, 2006*) (a) A person is guilty of  
72 possession of identity theft paraphernalia when such person possesses  
73 any access device, document-making equipment and authentication  
74 implements for the purpose of obtaining personal identifying  
75 information of another person to obtain, or attempt to obtain, money,

76 credit, goods, services, property or medical information in the name of  
77 such other person without the consent of such other person.

78 (b) For purposes of this section, "access device" means any card,  
79 plate, code, account number, mobile identification number, personal  
80 identification number, telecommunication service access equipment,  
81 card-reading device, scanning device, re-encoder or any other means  
82 that could be used to obtain the financial information, personal  
83 identifying information or benefits of another person.

84 (c) Possession of identity theft paraphernalia is a class A  
85 misdemeanor.

86 Sec. 7. (NEW) (*Effective July 1, 2006*) (a) A person is guilty of  
87 facilitation of identity theft when such person assists another person in  
88 obtaining any license, registration, certificate or other personal  
89 identification document with the knowledge that such other person is  
90 not entitled to it.

91 (b) The provisions of subsection (a) of this section shall not apply if  
92 the sole purpose of obtaining such license, registration, certificate or  
93 other personal identification document is to obtain goods or services  
94 unavailable to such other person because of such other person's age.

95 (c) Facilitation of identity theft is a class A misdemeanor.

96 Sec. 8. (NEW) (*Effective July 1, 2006*) Any person found guilty of any  
97 violation of section 53a-129a of the general statutes, revision of 1958,  
98 revised to January 1, 2003, or section 53a-129b, 53a-129c or 53a-129d of  
99 the general statutes and any other offense committed as a result of  
100 such violation, shall make restitution for the full amount of financial  
101 loss suffered by the victim of such violation or violations including,  
102 but not limited to, documented lost wages and a reasonable attorney's  
103 fee necessary to remedy such violation or violations.

104 Sec. 9. (NEW) (*Effective July 1, 2006*) (a) Any person, as defined in  
105 section 12-1 of the general statutes, in possession of personal  
106 identifying information shall make reasonable efforts to protect such

107 information from misuse including, but not limited to, destroying or  
 108 otherwise making unreadable any document, computer file, database  
 109 or any other record of such information prior to disposal.

110 (b) A violation of the provisions of this section shall be deemed to be  
 111 an unfair trade practice within the provisions of chapter 735a of the  
 112 general statutes.

113 Sec. 10. (NEW) (*Effective July 1, 2006*) Any alteration to a lawfully  
 114 issued license, registration, certificate or other personal identification  
 115 document shall render such license, registration, certificate or other  
 116 personal identification document void.

117 Sec. 11. (NEW) (*Effective July 1, 2006*) (a) A person is guilty of  
 118 personal identification fraud when such person alters a lawfully issued  
 119 license, registration, certificate or other personal identification  
 120 document.

121 (b) The provisions of subsection (a) of this section shall not apply if  
 122 the sole purpose of the alteration of the license, registration, certificate  
 123 or other personal identification document is to obtain goods or services  
 124 unavailable to such person because of such person's age.

125 (c) Personal identification fraud is a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	53a-129a(a)
Sec. 2	<i>July 1, 2006</i>	53a-130
Sec. 3	<i>July 1, 2006</i>	54-93a
Sec. 4	<i>July 1, 2006</i>	54-1d(c)
Sec. 5	<i>July 1, 2006</i>	54-36h(a)
Sec. 6	<i>July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2006</i>	New section
Sec. 8	<i>July 1, 2006</i>	New section
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	New section
Sec. 11	<i>July 1, 2006</i>	New section

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Attorney General; Consumer Protection, Dept.	Various Funds - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill establishes the crimes of possession of identity theft paraphernalia, facilitation of identity theft and personal identification fraud, which are punishable by up to one years' imprisonment and/or a fine of up to \$2,000. To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community exist. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The bill also makes it an unfair trade practice for any person in possession of personal identifying information to fail to make reasonable efforts to protect such information from misuse. Under the Connecticut Unfair Trade Practices Act (CUTPA), the Department of Consumer Protection (DCP) and the Attorney General can impose

CUTPA fines.

In the case of settlements, depending on the negotiation terms, funds are either deposited into the DCP's Consumer Protection Settlement Account or the unrestricted resources of the General Fund. Funds deposited into the Consumer Protection Settlement Account are used only to enhance activities that further consumer protection. In FY 05, \$92,298 in CUTPA fines were deposited into the DCP Consumer Protection Settlement Account. Additionally, in FY 05, \$356,751 in CUTPA fines were deposited into the General Fund as a result of settlements negotiated by the Office of the Attorney General. The state agencies could accommodate the workload associated with enforcement of the bill without requiring additional resources. To the extent that the bill increases the potential for future violations, the bill could result in a minimal revenue gain to the state.

### ***The Out Years***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal	Potential Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential	Potential
Attorney General; Consumer Protection, Dept.	Various Funds - Revenue Gain	Potential Minimal	Potential Minimal	Potential Minimal

Note: GF=General Fund

***Municipal Impact:*** None



**OLR Bill Analysis****SB 55*****AN ACT CONCERNING IDENTITY THEFT.*****SUMMARY:**

This bill establishes three new crimes related to identity theft.

It changes the elements of identity theft; gives judicial district courts jurisdiction to hear the cases; requires offenders to make full restitution; makes property derived from the proceeds of identity theft crimes or related crimes subject to forfeiture; and requires, rather than allows, courts to issue orders necessary to correct public records that contain false information because of an identity theft crime.

It makes it an unfair trade practice for any person, business, society, association, trustee, executor, administrator, or other fiduciary or custodian who possesses personal identifying information to fail to make reasonable efforts to protect it from misuse. Reasonable efforts include destroying or otherwise making unreadable any document, computer file, database, or any other record of the information before disposing of it. The bill appears to make an individual guilty of an unfair trade practice if he is not careful to protect his own records from misuse.

It enhances the penalty for criminal impersonation by upgrading its classification from a B to A misdemeanor.

EFFECTIVE DATE: July 1, 2006

**NEW CRIMES**

The bill creates three new crimes and classifies each as a class A misdemeanor, which is punishable up to one year in prison, a \$2,000

fine, or both.

***Facilitation of Identity Theft***

A person commits this crime when he helps another person get a license, registration, certificate, or other personal identification document knowing that the other person is not entitled to it. However, a person is not guilty of this crime if the sole reason for getting the document is to help someone obtain goods or services otherwise unavailable to him because of his age.

***Possession of Identity Theft Paraphernalia***

A person is guilty of this crime when he possesses any access device, document-making equipment, and authentication implements so that he can get another person's personal identifying information and use it to get or attempt to get money, credit, goods, services, property or medical information in the victim's name and without his consent. An "access device" is any card; plate; code; account, mobile identification, or personal identification number; telecommunication service access equipment; card-reading or scanning device; re-encoder; or any other means that could be used to obtain another person's financial or personal identifying information or benefits.

***Personal Identification Fraud***

A person is guilty of this crime when he alters a lawfully issued license, registration, certificate, or other personal identification document. However, he is not guilty of this crime if the sole purpose for the alteration is to obtain goods or services unavailable to him because of his age. The bill provides that any alteration to these documents render them void. It does not define "alter," so presumably any change, no matter how innocuous, in the document's appearance renders it void.

**IDENTITY THEFT**

Under current law, a person commits identity theft when he intentionally and without consent gets another person's personal identifying information and uses it get, or attempt to get, money,

credit, goods, services, property, or medical information in the victim's name.

The bill eliminates the requirement for anyone to illegally get the information, thereby making illegal use the only element of the crime. The bill changes the required state of mind of offenders from "intentionally" to "knowingly" committing the act.

It allows identity theft offenders to be arraigned and prosecuted in the judicial district or geographical area court, rather than just the geographical area court, where the victim lives.

It requires identity theft offenders to repay their victims for the full amount of their financial loss, including documented lost wages and reasonable attorney's fees.

## **BACKGROUND**

### ***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits people and businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

### ***Forfeiture***

Within 90 days after law enforcement seizes proceeds and property, state prosecutors may institute civil forfeiture actions against the property. The administrative services commissioner must sell the property at a public auction if a court orders it forfeited. She must use the sale proceeds to pay (1) the balance due on any lien the court preserved in the forfeiture proceeding; (2) costs incurred for storing,

maintaining, securing, and forfeiting the property; and (3) court costs (CGS § 54-36h). She must deposit any balance in the Drug Asset Forfeiture Revolving Account for substance abuse treatment, education programs, and drug enforcement in accordance with the following formula: 70% to the Department of Public Safety, 20% to the Department of Public Health and Addiction Services, and 10% to the Division of Criminal Justice (CGS § 54-36i).

### ***Criminal Impersonation***

A person is guilty of this crime when he:

1. impersonates another and acts in the assumed character with intent to obtain or to injure or defraud another,
2. pretends to be a representative of some person or organization and acts in the pretended capacity with intent to obtain or to injure or defraud another, or
3. pretends to be a public servant (other than a police officer) or wears or displays without authority any uniform or badge by which the public servant is lawfully distinguished with intent to induce another to submit to the pretended authority or otherwise act in reliance on the pretense.

Criminal impersonation is a class B misdemeanor, punishable by up to six months imprisonment, a \$1,000 fine, or both (CGS § 53a-130).

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea    38    Nay   0    (03/27/2006)